IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 29TH OCTOBER 2007 / 7TH KARTHIKA 1929

Bail Appl..No. 6340 of 2007

(CRIME NO. 324/2007 OF THENJIPALAM POLICE STATION

PETITIONER/ACCUSED

PAPPANKUTTY, S/O. KOORAN,
PAINATTU HOUSE, PARAMBIL PEEDIKA, SUPER BAZAR,
PERUVALLUR.

BY ADV. SRI.T.V.GEORGE
SMT.LINDA GEORGE

RESPONDENTS:

STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 29/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.6340 of 2007

Dated this the 29th day of October, 2007

ORDER

Application for anticipatory bail. The petitioner faces allegations under Section 55 (b) of the Kerala Abkari Act. It is alleged that in the house of the petitioner, distillation was going on. 4 litres of arrack and implements for distillation were allegedly seized from the house of the petitioner. When the police party reached the scene on receipt of prior discreet information, a person was seen running away from the house of the petitioner. There was no identification of that person. After effecting seizures, the crime was registered raising allegations against the petitioner. Investigation is in progress. The petitioner apprehends imminent arrest. His nephew has contested the election against the ruling political front. The petitioner had taken active part in such election. The petitioner has hence been victimised by the members of the ruling front by raising such a false allegation against the petitioner. The petitioner is innocent. Anticipatory bail may be granted to the petitioner, prays the learned counsel for the petitioner.

2. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that there are no

circumstances justifying or warranting the invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. At the moment and with the available inputs, a conclusion even prima facie that the petitioner is being hounded on account of his political activity is not justified at all, submits the learned Public Prosecutor .

3. I find merit in the opposition by the learned Public Prosecutor. There is nothing at the moment to even sail to a provisional conclusion or even a genuine apprehension that the petitioner is being victimised on the basis of false allegations engineered against him by persons interested against him. I am satisfied that this is a fit case where the petitioner must resort to the ordinary and normal course of appearing before the Investigating Officer or the learned Magistrate having jurisdiction and then seek regular bail.

4. This application is, in these circumstances, dismissed, but I may hasten to observe that if the petitioner surrenders before the Investigating Officer or the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

(R.BASANT, JUDGE)

rtr/-